

Remarks

I. Status of the Application and Summary of the Office Action

This paper is filed in response to the Office Action mailed on June 23, 2004. Claims 1-19 are pending in the present application.

On page 2 of the Office Action, the Examiner requests that Applicant amend the section views of Figures 3, 4, and 5 to indicate the plane in which the sections are taken. Applicant has amended Figure 1 to overcome the Examiner's rejection. Applicant has enclosed an informal Figure 1 for the Examiner's review. This new drawing does not add new matter.

Also, on page 2 of the Office Action, the Examiner objected to the brief description of the drawings for not describing the plane upon which the sectional views of Figures 3, 4, and 5 is taken. Herein, Applicant has amended the specification to traverse the Examiner's objection.

The Office Action rejects claims 1-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,884,092 to Raudebaugh ("Raudebaugh"). Applicant has reviewed the reference and submits that the reference does not anticipate the pending claims as set forth below.

The application and claims have been amended to overcome the Examiner's basis for rejection and objection. Reconsideration and allowance of the claims are respectfully requested.

II. U.S. Patent No. 3,884,092 Does Not Anticipate Claims 1-19

Claim 1 of the present application states:

A fatigue relieving/preventing apparatus associated with vehicular control means comprising:

a first section that connects to a predetermined portion of the vehicular control means; and

a deformable section that connects to the first section that is capable of supporting at least a portion of a vehicular operator's body.

Further, claim 10 states:

A fatigue relieving/preventing apparatus associated with a vehicular control means, comprising:

at least two discrete first sections that each connect to a predetermined portion of the vehicular control means, and

a discrete deformable second section that connects to each first section.

For the Examiner's convenience Applicant has printed in italics at least one element of claims 1 and 10 that is not taught, suggested or obvious in view of Raudebaugh. Noting this, Raudebaugh does not anticipate claims 1 or 10 under 35 U.S.C. 102(b) because it fails to meet the requirement for a reference to anticipate which is that the reference must include each and every element of claim 1 or 10 in the same way. *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001) ("To anticipate, every limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim"); *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986) ("absence from the reference of any claimed element negates anticipation").

Raudebaugh teaches a first member (*i.e.*, a "stiffening member") that connects to the vehicular control means (*e.g.*, steering wheel), and a deformable member (*i.e.*, a cushion strip) that connects to the first member. See Raudebaugh, Col. 1, lines 55-67 and Col. 2, lines 28-33. The deformable member upon which the Examiner relies as rendering claim 1 anticipated just cushions the hand but in and of itself does not independently support the hand. The proper member that the "deformable member" of the present invention should be compared is the stiffening member in Raudebaugh. Raudebaugh does not teach or suggest that the cushion strip is capable of independently supporting the weight of part of the operator's body as required by claim 1; nor does it teach or suggest that the stiffening member is deformable.

Noting the foregoing, Raudebaugh does not teach a deformable section with a support capability according to claim 1 or 10, and, in fact, Raudebaugh teaches away from the present invention. Accordingly, the anticipation rejection should be withdrawn.

Claims 2-9 and 11-19 depend from claims 1 and 10, respectfully. Accordingly, each of the dependent claims add features to claims from which they depend. Each of the dependent claims also include all of the features of claims 1 or 10. Therefore, like claims 1 and 10 dependent claims 2-9 and 11-19 are not anticipated for the same reasons that claims 1 and 10 are not anticipated.

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Conclusion

The present application is new, non-obvious, and useful. Applicant has traversed each of the Examiner's bases for objecting to the specification and rejecting the pending claims, and Applicants submit that the application is in condition for allowance and respectfully request that it issue in due course.

No fees are believed to be due in connection with this response and amendment. Please charge any additional fees that may be required, or credit any overpayments that may be due, to Deposit Account No. 08-0219.

Respectfully submitted,



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